

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MICHAEL STALLWORTH,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil Action No. 14-4005 (MAS)

MEMORANDUM AND ORDER

Pro se Petitioner Michael Stallworth, a federal prisoner confined at the U.S. Penitentiary Lee in Jonesville, Virginia, seeks to bring a motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255. Local Civil Rule 81.2 provides:

Unless prepared by counsel, petitions to this Court for a writ of *habeas corpus* . . . shall be in writing (legibly handwritten in ink or typewritten), signed by the petitioner or movant, on forms supplied by the Clerk.

L.Civ.R. 81.2(a). Petitioner did not use the habeas form supplied by the Clerk for section 2255 petitions, *i.e.*, AO243 (modified).

THEREFORE, it is on this 2nd day of July, 2014;

ORDERED that the Clerk of the Court shall administratively terminate this case, without filing the motion; Petitioner is informed that administrative termination is not a “dismissal” for purposes of the statute of limitations, and that if the case is reopened, it is not subject to the statute of limitations time bar if it was originally filed timely, *see Jenkins v. Superintendent of Laurel Highlands*, 705 F.3d 80, 84 n.2 (2013) (describing prisoner mailbox rule generally); *Dasilva v. Sheriff's Dep't.*, 413 F. App'x 498, 502 (3rd Cir. 2011) (per curiam) (“[The] statute of

limitations is met when a complaint is submitted to the clerk before the statute runs"); and it is further

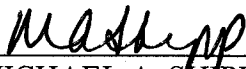
ORDERED that the Clerk of the Court shall forward Petitioner a blank § 2255 motion form—AO 243 (modified):DNJ-Habeas-004(Rev.01-2014); and it is further

ORDERED that the Clerk's service of the blank § 2255 motion form shall not be construed as this Court's finding that the original motion is or is not timely, or that Petitioner's claims are or are not duly exhausted; and it is further

ORDERED that if Petitioner wishes to reopen this case, he shall so notify the Court, in writing addressed to the Clerk of the Court, Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Room 4015, Newark, New Jersey 07101, within 30 days of the date of entry of this Memorandum and Order; Petitioner's writing shall include a complete, signed § 2255 motion on the appropriate form; and it is further

ORDERED that upon receipt of a writing from Petitioner stating that he wishes to reopen this case, and a complete, signed petition, the Clerk of the Court will be directed to reopen this case; and it is finally

ORDERED that the Clerk of the Court shall serve a copy of this Memorandum and Order upon Petitioner by regular U.S. mail.



MICHAEL A. SHIPP
United States District Judge